

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
BETTY SUE PESAVENTO, ) CASE NO. 06-60404 JPK  
 ) Chapter 7  
Debtor. )

ORDER CONCERNING NOTICE OF MOTION TO  
VACATE ORDER OF DISCHARGE

On June 28, 2006, a document entitled "Notice of Motion to Vacate Order of Discharge" was docketed as record entry #11 on the docket of this case. On June 28, 2006, the identical document was docketed as record entry #12 on the docket of this case. The predicate motion to which record entries #11 and #12 relate is nowhere to be found in the Court's record.

The fact that no predicate motion has ever been filed in the record is enough for the Court to simply disregard the filings stated in record entries #11 and #12. However, in contemplation that counsel for the debtor will file a motion which somehow mirrors the title of that referred to in the above-designated notices, the Court deems it appropriate to elaborate a bit more.

First, the captions used in both of the foregoing documents state that the instant case is a Chapter 13: this is a Chapter 7 case.

Secondly, the statutory authorization for the relief requested by the debtor must be explicitly stated in a motion in order to comply with Fed.R.Bankr.P. 9013 and N.D.Ind.L.B.R. B-9013-1/B-9023-1. The Court surmises that the motion contemplated to be filed by the debtor's counsel requests that the Court set aside the order of discharge of the debtor entered on June 19, 2006. That is a surmise, because as stated, no motion requesting any relief from the Court has ever been filed. Obviously, the debtor is not entitled to an order of revocation of discharge pursuant to 11 U.S.C. § 727(d), because the debtor is not an entity designated in that statute as having standing to seek such relief – putting aside the fact that the debtor probably does not

want to have her discharge revoked. An order granting the debtor's discharge is a final appealable order, but it certainly appears to the Court that the debtor does not intend to appeal the order granting the debtor's discharge pursuant to Fed.R.Bankr.P. 8001, *et seq.* Because no motion has been timely filed, the debtor cannot pursue relief under Fed.R.Bankr.P. 9023/ Fed.R.Civ.P. 59. That would apparently leave the premise for relief which might be requested by a motion which might be filed as Fed.R.Bankr.P. 9024/Fed.R.Civ.P. 60. The requirements for filing such a motion are stated in N.D.Ind.L.B.R. B-9023-1, and those requirements include the filing of a separate supporting brief.

IT IS ORDERED that there is nothing before the Court with respect to the documents filed as record entries #11 and #12 in the docket record of the foregoing case.

Dated at Hammond, Indiana on August 16, 2006.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:  
Debtor, Attorney for Debtor  
Trustee, US Trustee